

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAZMEN PETERSON, et al.,	:	
Plaintiffs,	:	Case No. 3:13 -cv-187
v.	:	
NORTHEASTERN LOCAL	:	JUDGE WALTER H. RICE
SCHOOL DISTRICT, et al.,	:	
Defendants.	:	

ENTRY NOTING PLAINTIFFS' FAILURE TO RESPOND TO THE COURT'S ORDER (DOC. #65) TO SHOW CAUSE WHY DEFENDANTS SHOULD NOT RECOVER REASONABLE EXPENSES AND ATTORNEYS' FEES UNDER FED. R. CIV. P. 37(a)(5)(A); DEFENDANTS ARE ORDERED TO FILE, WITHIN FOURTEEN (14) DAYS FROM DATE, A FEE APPLICATION QUANTIFYING THE REASONABLE EXPENSES AND ATTORNEYS' FEES INCURRED IN FILING THEIR AMENDED MOTION TO COMPEL DISCOVERY (DOC. #48); PLAINTIFFS MAY FILE A RESPONSE WITHIN FOURTEEN (14) DAYS THEREAFTER

On September 30, 2015, the Court adopted the Report and Recommendations of the Chief United States Magistrate Judge Sharon L. Ovington (Doc. #62), and sustained Defendants' Amended Motion to Compel Discovery (Doc. #48). The Court ordered Plaintiffs to produce a number of documents relevant to their claims that they had not previously produced, or, in the alternative, submit affidavits describing their efforts to locate the documents. The Court also ordered Plaintiffs to show cause why they should not be required to pay the costs and reasonable attorneys' fees that Defendants accrued in filing the

Motion to Compel, as required by Rule 37(a)(5)(A) of the Federal Rules of Civil Procedure. Plaintiffs were given until October 16, 2015, to comply. Doc. #65.

Plaintiffs requested an extension of time to file the affidavits until October 26, 2015, which was granted. Doc. #66. With leave of the Court, Plaintiffs filed the affidavits instantler on October 27, 2015. Doc. #67.

Plaintiffs have not, however, responded to the Court's order to show cause why they should not pay Defendants' costs and reasonable attorneys' fees incurred in filing the Motion to Compel.

Under Rule 37(a)(5)(A) of the Federal Rules of Civil Procedure, if a Motion to Compel is granted, the Court:

must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees.

While Plaintiffs have complied with the Court's order by filing their affidavits, they have not responded to or acknowledged the order to show cause why they should not have to pay the reasonable expenses that Defendants incurred in filing the Motion to Compel. Plaintiffs have been given the opportunity to respond required by Rule 37(a)(5)(A), but have remained silent for over a month on this issue. Thus, the Court concludes that the only unfinished business associated with Defendants' Motion to Compel is the determination of the amount of reasonable expenses and attorneys' fees that they are entitled to recover.

Accordingly, Defendants are ORDERED to file, within fourteen (14) days from date, a fee application quantifying the amount of attorneys' fees and costs that they incurred filing the Motion to Compel. Plaintiffs will have fourteen (14) days thereafter to respond.

Date: November 2, 2015



WALTER H. RICE
UNITED STATES DISTRICT JUDGE